These are some of the questions we can ask ourselves.

Help us imagine a future that keeps faith with the sentiments expressed here in 1848. The future, like the past and the present, will not and cannot be perfect. Our daughters and granddaughters will face new challenges which we today cannot even imagine. But each of us can help prepare for that future by doing what we can to speak out for justice and equality for women's rights and human rights, to be on the right side of history, no matter the risk or cost, knowing that eventually the sentiments we express and the causes we advocate will succeed because they are rooted in the conviction that all people are entitled by their creator and by the promise of America to the freedom, rights, responsibilities, and opportunity of full citizenship. That is what I imagine for the future. I invite you to imagine with me and then to work together to make that future a reality.

Thank you all very much.●

TRIBUTE TO LIEUTENANT COLONEL STEVEN DOUGLAS JACQUES, USAF

● Mr. WARNER. Mr. President, I rise to recognize the dedication, public service, and patriotism of Lieutenant Colonel Steven Douglas Jacques, United States Air Force, on the occasion of his retirement after over twenty years' of faithful service to our nation. Colonel Jacques' strong commitment to excellence will leave a lasting impact on the vitality of our nation's Space and Intelligence capabilities, commanding the admiration and respect of his military and civilian colleagues.

The son of a retired Air Force Senior Master Sergeant, Steve received his commission through the Air Force Reserve Officer Training Corps program while attending Texas Tech. He was first assigned at the Space and Missiles Systems Organization (SAMSO), Los Angeles AFS, CA in 1977, where he served as financial manager for the Expendable Space Launch Vehicles Program.

In 1981, Steve was assigned to HQ Systems Command, Andrews AFB, MD, as Budget Officer for Space Programs. In 1983, he was transferred to Headquarters, United States Air Force, Pentagon, as the Program Element Monitor for the Expendable Launch Vehicles programs. During this time, the Department reversed its policy and determined that placing sole reliance on the Space Shuttle for access to space for military satellites presented an unacceptable national security risk. Consequently, new ELV programs were created, and Steve became the Air Force's first Titan IV ''PEM.''

Following his Pentagon tour, Steve was transferred back to Los Angeles AFB in 1985, where he was assigned as Deputy Program Control Director for Expendable Launch Vehicles. Months after Steve's arrival, the tragic loss of the Space Shuttle Challenger stimulated the nation's ''Space Launch Recovery,'' in which the Defense Department determined its satellites would eventually be removed from the shuttle and placed back on ELVs for launch. Steve led the efforts in costing and packaging the $10 billion Space Launch Recovery, which was fully approved by the Department and the Congress.

In 1988, Steve returned to the Pentagon, serving in the Special Programs Division of the Directorate for Space Programs, Assistant Secretary of the Air Force for Acquisition. Following duty as Executive Officer to the Director of Space Programs, Steve was assigned to the Assistant Secretary of the Air Force for Legislative Liaison in 1991, where he served as the Air Force's liaison officer to the Congress for all Space Programs.

During the winter and spring of 1994, Steve attended the Defense Systems Management College at Fort Belvoir, Virginia, receiving his Level III certification in Program Management. Following school, Steve was assigned to the National Reconnaissance Office, where he first served as Director of Program Control for a classified program, and later as the SIGINT and Launch Comptroller. While serving as Comptroller, Steve played a formidable leadership role during the NRO's ''forward funding'' recovery.

In 1996, Steve began his final assignment in the Office of the Assistant Secretary of Defense for Legislative Affairs, where he served as Special Assistant for Space, Intelligence, and Special Programs. In this capacity, he represented the Secretary of Defense on a myriad of important and sensitive matters with the U.S. Congress, most notably the tragic Khobar Towers bombing in Saudi Arabia, legislation forming the National Imagery and Mapping Agency, and a number of highly classified issues.

Colonel Steve Jacques' military awards include the Defense Superior Service Medal, the Defense Meritorious Service Medal, the Air Force Meritorious Service Medal, and the Air Force Commendation Medal.

Mr. President, our nation, the Department of Defense, the United States Air Force, and Lieutenant Colonel Steve Jacques' family—his wife Debbie and daughters Tracy and Amy—can truly be proud of this outstanding officer's many accomplishments. While his honorable service will be genuinely missed in the Department of Defense, it gives me great pleasure to recognize Lieutenant Colonel Steve Jacques before my colleagues and wish him the best in his future endeavors.●

PRIVATE HEALTH INSURANCE: HCFA CAUTIOUS IN ENFORCING FEDERAL HIPAA STANDARDS IN STATES LACKING COMPARABLE LAWS

● Mr. JEFFORDS. Mr. President, today, I am releasing a new U.S. General Accounting Office (GAO) report entitled, ''Private Health Insurance: HCFA Cautious in Enforcing Federal HIPAA Standards in States Lacking Comparable Laws'' (GAO/HEHS–98–217R). The GAO report warns that Federal involvement in the role traditionally reserved for the States may complicate oversight of private health insurance.

In 1945, Congress passed the McCarran-Ferguson Act, thereby endorsing the arrangement where States are responsible for the regulation of insurance. Federal regulation of health insurance in States establishes a new precedent. In light of current proposals that would establish additional Federal standards of health insurance, I believe we must carefully consider the appropriate role for Federal and State regulatory agencies in monitoring and enforcing compliance with insurance standards.

As the Chairman of the Committee on Labor and Human Resources, I have closely monitored the implementation of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) since its enactment in the last Congress. HIPAA set new Federal standards for access, portability, and renewability for group health plans under the Employee Retirement Income Security Act of 1974 (ERISA) and for health insurance issuers which have traditionally been regulated by the States. Under the HIPAA framework, in the event that a State does not enact the new Federal standards for health insurance issuers, the Health Care Financing Administration (HCFA) is required to enforce the provisions.

As of June 30, 1998, officials in California, Rhode Island, and Missouri have voluntarily notified HCFA that they have failed to enact HIPAA standards in legislation. Two other States, Massachusetts and Michigan, are widely known to have not enacted conforming legislation, but the States have not notified HCFA, nor has HCFA initiated the formal process to determine if Federal regulation is necessary.

In the case of the five States where HIPAA standards have not been adopted, HCFA must assume several functions normally reserved for State insurance regulators. These duties include (1) responding to consumer inquiries and complaints; (2) providing guidance to carriers about HIPAA requirements; (3) obtaining and reviewing carriers' product literature and policies for compliance with HIPAA standards; (4) monitoring carrier marketing practices for compliance; and (5) imposing civil monetary penalties on carriers who fail to comply with HIPAA requirements.

HCFA officials have acknowledged that their agency has thus far taken a minimalist approach to regulating HIPAA, and they attribute the agency's limited involvement to a lack of experienced staff, as well as uncertainty about its actual regulatory authority. Originally assuming that States would adopt HIPAA legislation, HCFA reassigned only a small number of staff members to address enforcement issues. The reassigned staff generally came from other divisions and

had no previous experience in private health insurance.

As of July, 1998, HCFA has authorized 40 full-time staff members to work on all HIPAA-related issues. HCFA officials acknowledge that these new staffers will likely focus on responding to consumer inquiries and complaints. Officials also have said that they will need additional staff to conduct any further enforcement activities. They are unable to state their precise staff needs, because they are inexperienced in the regulation of private health insurance and are uncertain of their long-term responsibility. At a Labor Committee oversight hearing in March, HCFA Commissioner Nancy-Ann Min DeParle testified that HCFA may require an additional range of enforcement tools, beyond the already-established civil monetary penalties.

Without formal notification of noncompliance from Massachusetts and Michigan, HCFA must undertake a determination process to establish the States' nonconformance, officially providing the authority for HCFA to become involved. HCFA officials have not yet undertaken this effort, which they characterize as cumbersome.

The GAO has found that HCFA's review of carriers' product literature and policy compliance would be restricted by the Paperwork Reduction Act. The Act establishes a process for approval of any collection information, defined as collecting information from 10 or more persons. HCFA would need to obtain approval from the Office of Management and Budget for anything other than obtaining information in response to specific consumer complaints. To fulfill its regulatory duties, HCFA would need OMB approval to collect information from all carriers on a regular basis, which most State insurance commissioners already do.

In California, Missouri, and Rhode Island, oversight of health benefits is divided between State insurance regulators and the Department of Labor. The addition of HCFA to the array of regulatory bodies may further fragment and complicate the regulation of private health insurance. This framework may lead to duplication, yet none of these agencies will have complete authority for regulating health insurance products. Ms. DeParle herself has stated that this would be a challenging ''patchwork quilt of Federal and State enforcement.''

One example is in Missouri, where the State's present small-group, guaranteed-issue requirement is applicable to groups of 3 to 25 individuals. HIPAA's small-group guaranteed-issue standard applies to policies sold to groups of 2 to 50 individuals. Therefore, in Missouri, HCFA has the responsibility for ensuring that carriers guarantee products to groups the size of 2 individuals, and groups the size of 26 to 50 individuals.

The legislative history of HIPAA makes clear that the Congress intended that the effect of this legislation would be that all States would come quickly into compliance with the stated Federal standards, eliminating the need for active regulation by HCFA. We are now confronted by the fact that in at least five States HCFA must initiate enforcement with respect to group to individual market coverage.

At a March 19, 1998, Labor Committee HIPAA oversight hearing, Don Moran of the Lewin Group testified: ''The lesson I take from HIPAA is that, in the complex world of health benefits regulation, the Federal government cannot tidily insert itself as a policy-setter in a predominantly State-administered regulatory regime.'' In establishing minimum Federal standards for health insurance, we may have to develop alternative approaches to the HIPAA framework so as to encourage States to meet Federal standards and retain enforcement responsibilities.

Mr. President, the GAO report concludes that HCFA's regulatory role is likely to expand as it assumes enforcement responsibilities to ensure States' compliance with HIPAA. It is clear that HCFA's new regulatory responsibilities will increase the burden faced by health carriers and regulators, and will add to the confusion faced by consumers, who try to navigate through the intricate system of overlapping and duplicative regulatory jurisdiction.●

FEDERAL ACTIVITIES INVENTORY REFORM (FAIR) ACT

● Mr. THOMAS. Mr. President, I rise today to express my deep appreciation to the members of the Senate Governmental Affairs Committee, and the Committee's staff, for the time and effort they have dedicated to developing a consensus on my legislation to codify the 40+ year Federal policy on reliance on the private sector.

At the beginning of this Congress, I introduced S. 314, the ''Freedom from Government Competition Act.'' This legislation was an attempt to establish in statute a workable process by which Federal agencies utilize the private sector for commercially available products and services. As we have learned from our research and from House and Senate hearings, as early as 1932 Congress first became aware of the fact that the Federal government was starting and carrying out activities that are commercial in nature, and that government performance of these activities resulted in unfair competition with the private sector. In 1954, a bill to address this issue passed the House and was reported by the Committee on Governmental Affairs of the Senate. At that time, the Eisenhower Administration indicated that it could resolve the issue administratively. Bureau of the Budget Bulletin 55–4 was issued and the Senate suspended action on the legislation. The budget document established a federal policy of reliance on the private sector. It noted that the free enterprise system was the strength of our economy and that the government should not compete with private business. Rather, the Bulletin said, the government should rely on the private sector for those good and services that could be obtained through ordinary business channels.

That policy is now found in OMB Circular A–76 and has been endorsed by every Administration, of both parties, since 1955. However, the degree of enthusiasm for implementation of the Circular has varied from one Administration to another. In fact, the issue of government competition has become so pervasive that all three sessions of the White House Conference on Small Business, held in 1980, 1986, and 1995, ranked this as one of the top problems facing America's small businesses. According to testimony we received, it is estimated that more than half a million Federal employees are engaged in activities that are commercial in nature.

However, the purpose of my legislation is not to bash Federal employees. I believe most are motivated by public service and are dedicated individuals. However, from a policy standpoint, I believe we have gone too far in defining the role of government and the private sector in our economy. Because A–76 is non-binding and discretionary on the part of agencies, too many commercial activities have been started and carried out in Federal agencies. Because A–76 is not statutory, Congress has failed to exercise its oversight responsibilities. Further, by leaving ''make or buy'' decisions to agency managers, there has been no means to assure that agencies ''govern'' or restrict themselves to inherently governmental activities, rather than produce goods and services that can otherwise be performed in and obtained from the private sector.

Among the problems we have seen with Circular A–76 is (1) agencies do not develop accurate inventories of activities (2) they do not conduct the reviews outlined in the Circular, (3) when reviews are conducted they drag out over extended periods of time and (4) the criteria for the reviews are not fair and equitable. These are complaints we heard from the private sector, government employees, and in some cases from both.

In the 1980's our former colleague Senator Warren Rudman first introduced the ''Freedom from Government Competition Act'' in the Senate. Later, Representative John J. Duncan, Jr. (R–TN) introduced similar legislation the House. I was a cosponsor of that bill when I served in the other body. Upon my election to the Senate in the 104th Congress, I introduced the companion to Rep. Duncan's bill in the Senate.

On Wednesday, July 15, 1998 the Senate Governmental Affairs Committee unanimously reported a version of S. 314 that is a result of many months of discussion among both the majority and minority on the committee, OMB, Federal employee unions and private sector organizations. The amendment in the nature of a substitute offered by